

SENATE RESOLUTION 7002
By Ramsey

A RESOLUTION concerning the Senate District No. 29 election contest.

WHEREAS, on September 15, 2005, a special election was held in Shelby County to fill the vacancy in Senate District No. 29 created by the resignation of John N. Ford; and

WHEREAS, the preliminary and unofficial count of the Shelby County Election Commission indicated that Ophelia E. Ford received 4,333 votes and Terry Roland received 4,320 votes, a difference of only 13 votes; and

WHEREAS, on September 23, 2005, Mr. Roland filed a complaint to contest the election, alleging numerous irregularities occurred that call into question the accuracy and validity of the election results; and

WHEREAS, under the provisions of Article II, Section 11 of the Constitution of the State of Tennessee and Tennessee Code Annotated, Section 2-17-102, election contests for the office of state senator are decided by the senate, having sole and exclusive authority to judge the election of its members; and

WHEREAS, on September 26, 2005, the Shelby County Election Commission issued its official and certified tabulation of election results showing that Ophelia E. Ford received 4,333 votes; Terry Roland received 4,320 votes; Robert (Prince Mongo) Hodges received 89 votes; and Mitchell O. Thompson received 1 vote; and

WHEREAS, Speaker John S. Wilder appointed an election contest committee consisting of Speaker Pro Tem Michael R. Williams, Senator Ron Ramsey, Senator James F. Kyle, Senator Jeff Miller, Senator Joe M. Haynes, and Senator Roy Herron; and

WHEREAS, the committee conducted hearings in Legislative Plaza Room 12/14 on November 16, 2005; in the Supreme Court Room of the Shelby County Court House on

December 12, 2005; in Legislative Plaza Room 12/14 on December 21, 2005; and in Legislative Plaza Room 12/14 on January 9, 2006; and

WHEREAS, during the course of these hearings, the committee received written and/or oral presentations from Brook K. Thompson, State Coordinator of Elections; Maclin P. Davis, Jr., Lang Wiseman, and Richard B. Fields, Counsel for Terry Roland; David J. Cocke, Counsel for Ophelia E. Ford; and Gregory M. Duckett, Chairman, Shelby County Election Commission; and

WHEREAS, evidence presented to the committee clearly demonstrates that at least three (3) individuals (i.e., Robinson, Howard, and Evans), cast ballots in the election but were actually ineligible to vote due to prior felony convictions; and

WHEREAS, evidence presented also clearly demonstrates that, as a result of administrative error, one (1) individual (i.e., York), cast a ballot in the election after changing his address on election day using the fail safe process but was ineligible to vote in the election, having moved outside the boundaries of the district; and

WHEREAS, the evidence clearly demonstrates that an unknown person or persons fraudulently cast a ballot in the September 15, 2005 special election using the name of Joe Lewis Light, who died on August 6, 2005, and

WHEREAS, the evidence clearly demonstrates that an unknown person or persons fraudulently cast a ballot in the September 15, 2005 special election using the name of Archie L. Kirkwood, who died on August 30, 2005, and

WHEREAS, the evidence also reveals that at least two (2) individuals (i.e., Ford and Catron), who voted in the special election, are registered to vote in the district based upon business addresses while separate places of residence are maintained outside the district; and

WHEREAS, the evidence tends to show that approximately forty (40) illegal votes were cast by voters who were likely domiciled outside of the district at the time of the election; and

WHEREAS, the evidence clearly reveals that some sixty (60) votes were cast by persons who failed to sign ballot applications, as required by law; and

WHEREAS, the evidence also clearly reveals that some thirty (30) votes were cast by persons who failed to sign poll books, as required by law; and

WHEREAS, criminal investigations have been initiated and are ongoing with respect to the Senate District No. 29 special election; and

WHEREAS, serious irregularities of such gravity and pervasiveness cannot be tolerated, most especially in such a close election, and

WHEREAS, there is a sufficient quantum of proof that fraud or illegality so permeated the conduct of the special election as to render the election and its results incurably uncertain and untrustworthy; now, therefore,

BE IT RESOLVED BY THE SENATE OF THE ONE HUNDRED FOURTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, that this body, having the sole and exclusive authority to judge the election of its members pursuant to Article II, Section 11 of the Constitution of the State of Tennessee and Tennessee Code Annotated, Section 2-17-102, does hereby void the special election held on September 15, 2005, in Shelby County, to fill the vacancy in Senate District No. 29 created by the resignation of John N. Ford.

BE IT FURTHER RESOLVED, that the clerk of the senate shall promptly cause a copy of this resolution to be delivered to the Shelby County legislative body for appropriate action pursuant to Article II, Section 15(b) of the Constitution of the State of Tennessee.